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Human rights situations that require the Council's attention

Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Human Rights situation of Indian administered Kashmir requires council's attention

As a subject of International Law, India is obliged as well to comply with the International Law, Covenants and internationally recognized human rights and is responsible for the violations of these rights committed by and attributed to its armed forces and paramilitary forces. The human right violations had reached at alarming level, therefore urgently requires Council's attention. Deprivation of Kashmiris self-determination has resulted in massive human rights violations.

Human rights originate from the self-determination. The enjoyment of human rights depends on the realization of the right to self-determination. The right to self-determination is the cornerstone of the international world order. Realization of this right is an essential condition to guarantee the observance, promotion and protection of all human rights. Therefore, the right to self-determination is included in Article 1 of the two Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights. These Covenants affirm the right to self-determination of all peoples by virtue of which they "freely determine their political status and freely pursue their economic, social and cultural development." It is applicable to all peoples whose self-determination has been suppressed.

History stands testimony to the fact that the United Nations Security Council had passed various resolutions on Kashmir that called for a free and impartial plebiscite under the UN auspices to allow Kashmiris to determine their future by themselves. Besides this, the then Prime Minister of India Mr. Jewahir Lal Nehru and Indian representative in the UN Security Council had made numerous commitments pledges that the Kashmiris will be given their right to decide their political destiny but Indian continued intransigent approach and the systematic human rights abuses has been the main impediment in bringing about an amicable settlement of the Kashmir dispute.

The right to self-determination had led millions of peoples across the globe to find their destinies. Kashmiris still wait for the implementation of UN resolutions on Kashmir. Indian forces in Kashmir in order to crush the people's voice for self-determination, has let loosed reign of terror with enactment of draconian laws that facilitates human right violations. Thousands of Kashmiris are disappeared, tortured and killed by indiscriminate firing and thousand are blinded by pellet firing by Indian forces. Kashmir has been turned into a huge prison where everyone is under arrest.

In order to continue the occupation, India has adopted multidimensional strategy:

a. India isolated the Jamm u and Kashmir from the rest of the world. International NGOs, press are not allowed. UN High Commissioner for Human Rights had requested India for access to UN fact finding team to Indian administered Kashmir which Indian has denied and High Commissioner for Human Rights mentioned this before the sessions of United Nations Human Rights Council (in 33th Session, 34th Session, 35th Session June 2017 and 36th Session). Why denial on part of India? Simply India was to hide its atrocities, does not want that worlds should come to know about these massive violations. On the other systematic reign of terror has been let loosed in form of torture, enforces disappearances, custodial killings, mass killings, attacking peaceful protests , even ambulances are attacked for taking injured to hospitals. Indian forces have been firing Pellet guns and bullets indiscriminately on peaceful protests. Medical reports show that bullets and pellets have been fired above the abdomen causing instant death and permanent disablement massively.

b. The human right violations are so massive that the government of India has enacted a series of black laws on Kashmir which give a legal cover to Indian army and paramilitary forces to suppress the popular demand of exercise of their right of self-determination. Under Section 4 of Armed Forces Special Powers Act, power to shoot to kill has been grant to Indian armed forces. They can shoot to kill anyone at discretion. This is against the International Covenant on Civil and Political Rights under Art.6 which expressly prohibit derogation from the right to life under any circumstances. Thus even during times of emergency or war, no one can be deprived of his life.

- The Act permits detention without charge or trial for long periods which violates Article 9 of International covenant on Civil & Political Rights.

- These acts permit to keep the identity and address of any witness in secret. This has resulted in fake trials and is directly contrary to the International Covenant on Civil and Political Rights Article 14.
- Under these acts, confession before a police officer has been declared a valid confession under Indian Evidence Act.
- Burden of proof is reverse. Accused has to prove that he is not guilty of offence.
- Very disturbing is the impunity the Government of Indian has granted to its armed and para military forces.
- No suit or can lie against any Indian soldier in any court of law. This situation has drastically increased the human rights violations there.
- Section 7 of Public Safety Act, if the state has a reason to believe that any person may or is likely to an act thereby the security of the state is threatened; he can be put in detention for two years.

C. To defeat the very purpose of the relevant United Nations Security Council resolutions, the Indian government is continuously working on its nefarious designs to change the demography of occupied Kashmir. State subject law and the protection to its inhabitants has been in place from 1927 and consequent upon the forcible occupation, the Government of India assured the protection of state subject law in Article 35A which bars Indian people to purchase land in the occupied Jammu and Kashmir. The government in New Delhi intends to abrogate article 35A with the intention to settle the Indian people in occupied Jammu and Kashmir, thereby causing demographic changes in Kashmir - a overwhelming Muslim majority into minority, thus to defeat the UN resolutions. The change in demographic composition will have serious impact of fundamental nature on the results of plebiscite, in accordance with the UN resolutions.

Indian administered Jammu and Kashmir is one such place where there is no rule book as far as media censorship goes. The Kashmiri journalists who document incidents of violation of human rights are often threatened or attacked. In Indian Held Kashmir, where women are kept as hostages by the occupation forces, subjected to rape and other inhuman and degrading practices as a political weapons and victims of dehumanizing poverty when the bread earners of their families are arbitrarily detained. According to one estimate 3000 half widows, a name to given to the women whose husbands have disappeared, are suffering from various mental illnesses.

The children in Kashmir under Indian occupation have become the worst victims of violence. The children have been killed by the Indian troops. Children there have been disappeared for years together and their parents still wait for their back. The Indian forces arrest children from the school and jailed in different parts of India, thousands of kilometres away from homeland -the Kashmir, this all is done to deprive them from legal aid and also to deprive their parents to see their children. This situation has created a mental syndrome for the parents in Indian administered Kashmir.
Since July 8, 2016, 291 persons have been killed, 20038 have been injured and among these about 4000 are facing permanent disablement, and 18172 arrested and a large among these have been taken to unknown destination and we don't know their fate. The pellet firing has caused permanent loss of eyesight of hundreds of our youth and 3086 Kashmiris have lost partial eyesight. Since 1990, India army has killed 94,767 Kashmiri men, women and children.
It is high time for the international community particularly the Human Rights Council to play its role for implementation of UN resolutions so that peace may also come to this region and the human rights abuses will come to an end.